



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,630	07/05/2000	Mark Joseph Bearden	2-4-2-2	3868

7590

09/10/2003

Thomas Stafford  
Patent Attorney  
4173 Rotherham Court  
Palm Harbor, FL 34685

EXAMINER

LAFORGIA, CHRISTIAN A

ART UNIT

PAPER NUMBER

2131

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/610,630

Applicant(s)

BEARDEN ET AL.

Examiner

Christian La Forgia

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

1. The amendment filed on 21 August 2003 is noted and made of record.
2. Claims 1 through 42 are presented examination.

#### ***Drawings***

3. The informal drawings filed in this application are acceptable for examination purposes.

When the application is allowed, applicant will be required to submit new formal drawings.

4. The Patent and Trademark Office no longer makes drawing changes. See 1017 O.G. 4.

It is applicant's responsibility to ensure that the drawings are corrected. Corrections must be made in accordance with the instructions below.

### **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

#### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

#### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

Art Unit: 2131

### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

### ***Specification***

5. The use of the trademark SQL and Peoplesoft has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.
6. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 through 4, 8 through 19, 23 through 29, 33 through 36, and 40 through 42 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6,594,277 to Chiang et al., hereinafter Chiang.

Art Unit: 2131

9. As per claims 1 and 26, Chiang teaches a method for use in a policy-based management system comprising the steps of.

selecting a prescribed quality of service goal for a prescribed client and prescribed service (Figures 2 [block 70], 4 [blocks 70, 102, 132, 134]; column 2, lines 41-55; column 3, lines 43-60);

determining a delivered quality of service for said selected quality of service goal (Figure 5b [block 270, 280], 6 [blocks 410, 420]; column 3, lines 45-60; column 5, line 46 to column 6, line 17);

determining if said delivered quality of service is different than said selected quality of service goal (Figure 2 [block 62], 5b [block 270, 280, 310], 6 [blocks 410, 420]; column 3, lines 45-60; column 5, line 46 to column 6, line 17); and

if so, executing prescribed actions regarding network resources assigned to said client for said service, wherein said actions are intended to adjust said delivered quality of service toward being equal to said selected quality of service goal (Figures 4 [blocks 130, 138], 5b [block 310]; column 3, lines 45-60; column 5, lines 16-26; column 5, line 46 to column 6, line 4).

10. Regarding claims 2 and 27, Chiang teaches wherein a system administrator specifies said quality of service goal without said system administrator having to specify said prescribed actions intended to enforce said quality of service goal (column 4, lines 15-48).

11. With regards to claims 3 and 28, Chiang teaches wherein said quality of service goal is a service level quality of service goal (column 4, lines 15-48).

Art Unit: 2131

12. Concerning claims 4 and 29, Chiang teaches wherein said step of determining said delivered quality of service includes a step of employing monitored states of network resources assigned to said client and said service to determine said delivered quality of service (Abstract; Figures 5b [blocks 270, 280], 6 [blocks 410, 420]; column 3, line 61 to column 4, line 14; column 5, line 46 to column 6, line 18).

13. Concerning claims 8, 23, 33, and 40, Chiang teaches wherein said step of determining if said delivered quality of service is different includes a step of determining if said delivered quality of service is worse than said selected quality of service goal and, if so, said step of executing includes steps of determining and executing a set of actions to increase network resources assigned to said client and said service of said selected quality of service goal (Figures 5b [block 270], 6 [block 410]; column 5, line 46 to column 6, line 10; column 6, lines 18-53).

14. Concerning claims 9, 24, 34, and 41, Chiang teaches further including a step of reporting to said system administrator said set of actions (column 4, lines 15-48).

15. Concerning claims 10, 24, 35, and 42, Chiang teaches further including a step of reporting to said system administrator results of executing said actions (column 4, lines 15-48).

16. Regarding claim 11, Chiang teaches further including the steps of storing said selected quality of service goals and determining whether said stored quality of service goals should be updated (Figure 4 [block 106]; column 5, lines 8-26).

Art Unit: 2131

17. With regards to claim 12, Chiang teaches further including a step of updating said stored quality of service goals (Figure 4 [block 70]; column 5, lines 8-15).

18. Concerning claim 13, Chiang teaches wherein each of said quality of service goals is a service level quality of service goal (Figure 4 [block 70]; column 5, lines 8-15).

19. Concerning claim 14, Chiang teaches wherein said step of updating includes steps of adding a service level quality of service goal to said stored quality of service goals, redefining a stored service level quality of service goal or removing a stored service level quality of service goal (Figure 4 [block 70]; column 5, lines 8-15).

20. Regarding claim 15, Chiang teaches further including steps of monitoring a state of each network resource in a set of network resources and storing said monitored states (Figures 3, 4; column 3, line 61 to column 4, line 14; column 4, line 49 to column 5, line 15; column 5, line 46 to column 6, line 4).

21. With regards to claim 16, Chiang teaches further including a step of updating said monitored state of each network resource in said set of said network resources (Figures 3, 4; column 3, line 61 to column 4, line 14; column 4, line 49 to column 5, line 15; column 5, line 46 to column 6, line 4).

Art Unit: 2131

22. Concerning claim 17, Chiang teaches wherein said step of updating includes steps of requesting an update of said state of each network resource in said set of network resources, querying said state of each network resource in said set of network resources and storing said updated state (column 4, lines 15-48; column 5, lines 2-15).

23. With regards to claim 18, Chiang teaches wherein said step of monitoring further includes steps of receiving a network event notification indicating a change in state of a network resource and storing said indicated change of state of said network resource as an update of the state of said network resource (column 5, lines 2-15).

24. Regarding claim 19, Chiang teaches further comprising the steps of:

storing a set of service level quality of service goals (Figure 2 [block 70], 4 [blocks 70, 96], 5a [block 210]; column 4, lines 15-48);

storing monitored states of a set of network resources (Figure 4 [block 104]; column 4, lines 33-48; column 5, lines 2-15);

wherein said step of selecting includes selecting said prescribed defined quality of service goal from said stored service level quality of service goals for a prescribed client and prescribed service (Figure 5b [blocks 270, 280], 6 [block 410]; column 3, lines 45-60; column 5, line 46 to column 6, line 17); and

wherein said step of determining a delivered quality of service includes a step of using said stored monitored states to determine a delivered quality of service for said selected quality



Art Unit: 2131

of service goal (Figure 5b [block 310], 6 [block 410]; column 3, lines 45-60; column 5, lines 16-26; column 5, line 46 to column 6, line 4).

25. Regarding claim 36, Chiang teaches further comprising:

means for storing a set of service level quality of service goals (Figure 2 [block 70], 4 [blocks 70, 96], 5a [block 210]; column 4, lines 15-48);

means for storing monitored states of a set of network resources (Figure 4 [block 104]; column 4, lines 33-48; column 5, lines 2-15);

wherein said means for selecting includes means for selecting said prescribed defined quality of service goal from said stored service level quality of service goals for a prescribed client and prescribed service (Figure 5b [blocks 270, 280], 6 [block 410]; column 3, lines 45-60; column 5, line 46 to column 6, line 17); and

wherein said means for determining a delivered quality of service includes means for using said stored monitored states to determine a delivered quality of service for said selected quality of service goal (Figure 5b [block 310], 6 [block 410]; column 3, lines 45-60; column 5, lines 16-26; column 5, line 46 to column 6, line 4);

wherein said means for selecting includes means for selecting said prescribed defined quality of service goal from said stored service level quality of service goals for a prescribed client and prescribed service (Figure 5b [blocks 270, 280], 6 [block 410]; column 3, lines 45-60; column 5, line 46 to column 6, line 17); and

wherein said means for determining includes means for using said stored monitored states to determine said delivered quality of service for said selected quality of service goal (Figure 5b

Art Unit: 2131

[block 310], 6 [block 410]; column 3, lines 45-60; column 5, lines 16-26; column 5, line 46 to column 6, line 4).

***Claim Rejections - 35 USC § 103***

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 5 through 7, 20 through 22, 30 through 32, and 37 through 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiang in lieu of obviousness.

28. Concerning claims 5, 20, 30, and 37, Chiang does not teach wherein said step of determining if said delivered quality of service is different includes a step of determining if said delivered quality of service exceeds said selected quality of service goal and, if so, said step of executing includes steps of determining and executing a set of actions to reduce network resources assigned to said client and said service of said selected quality of service goal.

29. Chiang teaches toward wherein said step of determining if said delivered quality of service is different includes a step of determining if said delivered quality of service exceeds said selected quality of service goal and, if so, said step of executing includes steps of determining and executing a set of actions to reduce network resources assigned to said client and said service of said selected quality of service goal (column 5, line 46 to column 6, line 4; column 6, lines 19-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a step of determining whether the quality of service exceeded the quality of service goal. Chiang teaches optimizing the available quality of service before and during the

Art Unit: 2131

call. If by some circumstance an excess of bandwidth was granted to a particular call because of high bandwidth availability, and it was later determined that network traffic had increased, it would have been obvious to one of ordinary skill in the art to reallocate the overabundance of bandwidth to another call that needed the bandwidth, thereby optimizing every call on the system.

30. Concerning claims 6, 21, 31, and 38, Chiang teaches further including a step of reporting to said system administrator said set of actions (column 4, lines 15-48).

31. Concerning claims 7, 22, 32, and 39, Chiang teaches further including a step of reporting to said system administrator results of executing said actions (column 4, lines 15-48).

### ***Conclusion***

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

33. The following patents are cited to further show the state of the art with respect to quality of service in a policy-based management system, such as:

United States Patent No. 6,104,700 to Haddock et al., which is cited to show policy based quality of service.

United States Patent No. 6,539,425 to Stevens et al., which is cited to show a policy enabled communications network.

United States Patent No. 6,611,864 to Putzolu et al., which is cited to show extensible policy-based network management architecture.

Art Unit: 2131

United States Patent No. 6,463,470 to Mohaban et al., which is cited to show policy based management of quality of service.

United States Patent No. 6,466,984 to Naveh et al., which is cited to show policy based management of quality of service.

United States Patent No. 6,587,876 to Mahon et al., which is cited to show grouping targets of management policies.

United States Patent No. 6,449,650 to Westfall et al., which is cited to show employing quality of service policies.

United States Patent No. 6,119,235 to Vaid et al., which is cited to show quality of service management.

United States Patent No. 6,047,322 to Vaid et al., which is cited to show quality of service management.

United States Patent No. 6,167,445 to Gai et al., which is cited to show implementing quality of service using policies in a network.

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian La Forgia whose telephone number is (703) 305-7704. The examiner can normally be reached on Monday thru Thursday 7-5.

35. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

36. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


Application/Control Number: 09/610,630

Page 12

Art Unit: 2131

Christian La Forgia  
Patent Examiner  
Art Unit 2131

clf



AYAZ SHEIKH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100